

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

CIVIL MINUTES - GENERAL

Case No.	<u>SACV 11-0534 AG (ANx)</u>	Date	<u>June 17, 2011</u>
Title	<u>WALTER L. MITCHELL V. 3PL SYSTEMS, INC.</u>		

Present: The Honorable	<u>ANDREW J. GUILFORD</u>	
Lisa Bredahl	Not Present	
Deputy Clerk	Court Reporter / Recorder	Tape No.
Attorneys Present for Plaintiffs:	Attorneys Present for Defendants:	

Proceedings: [IN CHAMBERS] ORDER DENYING EX PARTE APPLICATION

Defendant 3PL Systems, Inc. (“Defendant”) filed an *Ex Parte* Application for Expedited Discovery (“Application”). Plaintiff Walter L. Mitchell III (“Plaintiff”) opposes the Application. After reviewing the papers submitted, the Court DENIES the Application.

“Ex Parte motions are rarely justified” *Mission Power Eng’g Co. v. Cont’l Cas. Co.*, 883 F. Supp. 488, 490 (C.D. Cal. 1995); *see also Fuentes v. Shevin*, 407 U.S. 67, 80-82 (1972) (due process requires that affected parties “are entitled to be heard” following “meaningful” notice, except in “extraordinary situations”); *Sniadach v. Family Finance Corp. of Bay View*, 395 U.S. 337, 339-40 (1969) (“the right to be heard ‘has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest’”).

Here, without addressing the issue of whether Defendant’s request suitable for ex parte relief, the Application is denied. Plaintiff has failed to establish that expedited discovery is warranted. Defendant’s submitted evidence primarily concerns the notice it provided to Plaintiff for its Application. Defendant does not provide sufficient evidentiary support for its contention that it will suffer harm without expedited discovery. The necessity of expedited recovery is also questionable given Defendant’s previous request for and this Court’s grant of a thirty-day extension to respond to Plaintiff’s complaint. (Lila Decl., ¶ 2, Ex. 1.)

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No.	<u>SACV 11-0534 AG (ANx)</u>	Date	<u>June 17, 2011</u>
Title	<u>WALTER L. MITCHELL V. 3PL SYSTEMS, INC.</u>		

Defendant has not shown good cause for its current request. *See American LegalNet, Inc. v. Davis*, 673 F. Supp. 2d 1063, 1066 (C.D. Cal. 2009). The Application is DENIED.

_____ : 0

Initials of
Preparer _____
lmb _____